



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on March 20, 2007

Date of Meeting: February 21, 2007

The Mayor and Council of the City of Tucson met in regular session in the Mayor and Council Chambers in City Hall, 255 West Alameda Street, Tucson, Arizona, at 5:36 p.m. on Tuesday, February 21, 2007 all members having been notified of the time and place thereof.

1. ROLL CALL

The meeting was called to order by Mayor Walkup and upon roll call, those present and absent were:

Present:

José J. Ibarra	Council Member Ward 1
Carol W. West	Vice Mayor, Council Member Ward 2
Karin Uhlich	Council Member Ward 3
Shirley C. Scott	Council Member Ward 4
Nina J. Trasoff	Council Member Ward 6
Robert E. Walkup	Mayor

Absent/Excused:

Steve Leal	Council Member Ward 5
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Staff Members Present:

Mike Hein	City Manager
Michael Rankin	City Attorney
Kathleen S. Detrick	City Clerk

Council Member Uhlich announced that Council Member Leal was absent because he was receiving a Rosa Parks Civil Rights award and he hoped to be able to join them shortly.

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Leondra Price, City of Tucson Equal Employment Opportunity Office. After which, the pledge of allegiance was led by members of the Catalina Magnet High School Air Force Junior ROTC.

Presentations

- a. Mayor Walkup presented two copper plaques from the City of Tucson to two members of the USS Tucson. The first was in recognition of Fire Control Technician First Class William Poddig receiving the "Senior Sailor of the Year" award and the second was in recognition of Machinists Mate Fireman Justin Straight receiving the "Blue Jacket of the Year" award.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 87, dated February 21, 2007 would be received into and made a part of the record. He also announced this was the time scheduled to allow members of the Council to report on current events and asked if there were any reports.

- a. Vice Mayor West invited the public to a town hall meeting at the Eastside City Hall, where David Taylor, retired City of Tucson Principal Planner would speak.
- b. Council Member Trasoff spoke of the recent success of the children's book drive at the Martha Cooper Library. She recognized Ward 6 aide Laura Burge for her extra efforts.
- c. Mayor Walkup spoke of the Match Play Golf Tournament and Tucson Rodeo going on in the City during the week and the great efforts made to ensure their success.

Kathleen S. Detrick, City Clerk announced Susie Rogers would be assisting with anyone in the audience needing Spanish language translation for items listed on the agenda.

4. CITY MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 88, dated February 21, 2007, would be received into and made a part of the record. He also announced this was the time scheduled to allow the City Manager to report on current events, and asked for that report.

There was no report.

5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager's communication number 89, dated February 21, 2007, would be received into and made a part of the record. He asked the City Clerk to read the Liquor License Agenda.

b. Liquor License Application(s)

Person Transfer(s)

1. Speak Easy Bar & Restaurant, Ward 6
1120 S. Wilmot Rd.
Applicant: Thursdivina S. Popp
Series 6, City 3-07
Action must be taken by: March 11, 2007
Tucson Police Department has indicated the applicant is not in compliance with city requirements.
Considered separately.

c. Special Event(s)

1. Tucson Waldorf Education Assoc., Ward 3
401 E. Limberlost
Applicant: Deanna Catherine Chevas
City T7-07
Date of Event: March 10, 2007
(Silent Auction Fundraiser)

Staff has indicated the applicant is in compliance with city requirements.
2. WM Symposia, Inc., Ward 1
140 N. Main Ave.
Applicant: James Voss
City T8-07
Date of Event: February 28, 2007
(Social, Networking Dinner at Conference)

Staff has indicated the applicant is in compliance with city requirements.

d. Agent Change

NOTE: There were no agent changes scheduled for this meeting.

It was moved by Council Member Ibarra, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Leal absent/excused), to forward liquor license applications 5c1 and 5c2 to the Arizona State Liquor Board with a recommendation for approval.

5. LIQUOR LICENSE APPLICATIONS

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Kathleen S. Detrick, City Clerk, announced the item to be considered separately was Item 5b1, a request for a person transfer for the Speak Easy Bar & Restaurant. The Tucson Police Department had indicated the applicant was not in compliance with city requirements. A representative from the Tucson Police Department was present, and the applicant was also present. This liquor license application is located in Ward 6.

Council Member Trasoff asked the applicant, Thursdivina “Jackie” Popp, to come forward. Council Member Trasoff advised her the Tucson Police Department had indicated she was not in compliance with city requirements, and asked if she there was anything she wanted to respond to, and said this was her opportunity to respond.

Thursdivina “Jackie” Popp, the applicant, said that was what she was there for. She felt the Tucson Police Department was being prejudiced against her. She said she knew she was in compliance. After reading the report from the Tucson Police Department, she said there were a lot of false accusations about her. She had been working at the Speak Easy before she took over. She was a bartender and a waitress there since February 2002, until December. She received an interim license to be purchased from Hector Rodriguez. Ms. Popp said the Tucson Police Department said in their report that from the time she took over, January 2, 2006 to 2007, there were about forty-eight incidents requiring police intervention at the Speak Easy. She did not understand that, because since she took over she said there were no incidents at all, and said she had proof of that. She said the stabbing Tucson Police Department mentioned and the bottle incident that occurred inside the Speak Easy occurred late December 2006. She was not the manager or an interim owner at that time, until January 2, 2007. From that day they have had no problems and they were in compliance.

Ms. Popp said the violence last year or year before that had nothing to do with her. Yes, she was working there as a bartender/waitress, two days a week. She said she had the paperwork that she was purchasing the liquor license from Mr. Rodriguez. She had nothing to do with the violations. She was just trying to buy the liquor license.

Ms. Popp said the Tucson Police Department also said she had been arrested. Where she comes from, arrested meant that you would be handcuffed and thrown in jail. She said she was Asian, Hawaiian-Filipino. She said there were a lot of accusations from the Tucson Police Department that she did not even know about.

Ms. Popp again stated she felt like the Tucson Police Department was prejudiced against her. She did not know what she did wrong to them, except telling them the truth and doing the right thing. That was why she was at the meeting. She asked for a continuance of her hearing.

Council Member Trasoff said they would first hear from the other speakers and then they would consider a continuance. Council Member Trasoff said Hector Rodriguez was also present, the person requesting to sell the liquor license. She asked him to come forward.

Hector Rodriguez, the current owner of the business, said he took it upon himself to go to the Tucson Police Department to get copies of the citations. He said he has been very vocal in the community for about thirty-five years in business, continues to pay taxes, and has been before the Mayor and Council before. He commented on the reported assaults, eighteen charges in March of 2005, eight disturbances; and said that meant they had to have happened every other day. He said there was a homicide that happened, which was not even related to the bar. It occurred at 2:30 or 3:00 in the morning, and it happened at the Lucky Wishbone, which was located four businesses north of his business. It happened when the bar was closed, and he said it had nothing to do with his business whatsoever. The person was never even in the bar at that time. He wanted to make that statement, and stated that was probably the most serious allegation charged against them.

Mr. Rodriguez said the Tucson Police Department said there was a stabbing at the bar, and asked when that was supposed to have happened. He told the Tucson Police Department there was a disturbance at the bar one night. They called the Tucson Police Department, and they came down; but there was no stabbing reported that particular evening. He said about one week and a half later, he received a call asking if someone had been stabbed at the bar. He replied not that he knew of; this was the first he had heard about it.

Mr. Rodriguez commented on the ongoing investigation. He said the liquor license transfer started to take place in October 2006. It was not something that just came about. He submitted to the Mayor and Council copies of a letter to the Arizona State Liquor & Control Board, dated August 22, 2006. He said he had been trying to retire out of his business for some time now. He added there was an arrest made in December of 2006, which was way after the fact, after the transaction had already started with Ms. Popp. He said that could be verified by Joanne Zelaya of the Arizona Department of Liquor Licenses and Control.

He repeated that it had been an ongoing thing and that he had been trying to retire out of the business. Mr. Rodriguez referred to his four-page letter to the Arizona State Liquor & Control Board, and said he went to the Tucson Police Department and copied down all the alleged violations. He read from one of the violations, which said “peace restored.”

Mr. Rodriguez stated the Tucson Police Department said he had called six times. He said he paid his taxes and he should be allowed to call the police department to restore peace in his own establishment, if he felt there was going to be a confrontation.

Mr. Rodriguez stated this was his sixth business in Tucson. He has been established in this business for some time. He read other violations he had been cited for; #5704, #0901A (a minor injury, which was drinking in public). He said that meant someone out in the parking lot was drinking. Mr. Rodriguez said that could have been any one of his patrons that went out to their car, and picked up a can of beer and was found drinking in the parking lot. He felt that was something he could not be found responsible for. He did not know what was going on outside sometimes, because he was inside the building. Therefore, these were things they were calling violations. He cited other citations: #5103, a lost animal call; malicious mischief; embezzlement from an employee. He said he did call, because one of his employees was embezzling money. He noted those were all calls that were made to the police department, and they were being called violations. He wanted to make it very clear that they were not violations; they were calls that he pays taxes for. He has paid taxes for thirty-five years in the business.

Mr. Rodriguez was upset that the Tucson Police Department was now calling them violations. He wanted to know where it said he was not allowed to call the Tucson Police Department, when he was in need of them. He said he has called the police in the past due to confrontations in his business. He has had his head busted open, and had his arm broken; therefore, he had to call the police department. The Tucson Police Department was tired of it, and he was tired of the business. He said the police department was also now saying that there was a hidden owner scenario. He said he did not want to hide anything; he was trying to get out of the business.

Mr. Rodriguez continued that he just took over another business from a disgruntled person, which took him two years to try to get his money. He was now trying to sell to “Jackie” Popp. He reiterated that he wanted out of the business. He had been there for thirty-five years. He was not there trying to hide a hidden scenario where he needed someone to front his business. He appealed to the Mayor and Council.

Mr. Rodriguez concluded stating there was something going on. He had called Special Investigations, and wanted to look into the person he sold the last business to. There was a fire that started outside Speak Easy’s back door, which he did not think was unusual, because there was a plastic cart they picked up trash with. That was burnt to a crisp. Three days later, outside the Wee Went Wong’s, when it was called Grumpy’s....

Council Member Trasoff advised Mr. Rodriguez that the past history of whom he bought from was irrelevant. They wanted to give him an opportunity to speak about the present and what he anticipated for the future. Council Member Trasoff told him they appreciated him laying out his concerns with the report. She called on the report from the Tucson Police Department, and asked them to give their thoughts on this application and the reasons they issued a “not in compliance.”

Sergeant Jim Stoutmeyer, Tucson Police Department Vice Unit, said he was giving the Speak Easy Bar & Restaurant the benefit of the doubt, as far as Ms. Popp taking over as of January 1. He added that in Mr. Rodriguez’s words, this had apparently been ongoing since October. He knew she had been employed there, because during the months of August through October, they conducted a special investigation there dealing with Mr. Rodriguez. Ms. Popp was the bartender at the time. On one occasion when they were there, Ms. Popp ended up exposing her breasts to a patron for money. She also had been part of transactions, when they sent in undercover officers to sell reported stolen alcohol to Mr. Rodriguez, by pointing him out in the back room. Several times when they walked into that back room during the undercover operation, there was cocaine in plain view. Sergeant Stoutmeyer said for Ms. Popp to say she did not know that any of these illegal activities were going on was false.

Sergeant Stoutmeyer referred to their report from the Tucson Police Department and said he would not go into the details. He said he would just touch on a few things. He said that out of forty-eight calls there during that time period that Mr. Rodriguez referred to, he left out all the minor things that were insignificant. However, six were aggravated assaults, including one shooting they had, and one stabbing. This did not include the homicide that occurred March 2005. Sergeant Stoutmeyer said just this past year, there was a stabbing, which was on January 1. There was also a shooting in the back parking lot that stemmed from an argument, which occurred inside. There were a total of ten aggravated assaults, where there was serious bodily injury. On one occasion, the victim happened to be a female patron who was minding her own business, when someone threw a bottle across the room, hitting her on the teeth and breaking them. She required treatment. He said that was just one of the eight incidences involving serious injuries, aggravated assault type injuries.

Sergeant Stoutmeyer said there were also ten other assaults and eight disturbances. The disturbances were fights where peace was restored before the Tucson Police Department got there; and while there, people were shuffled out into the parking lot. He said most of the incidences were indicative of over-service of alcohol, where all the fights were occurring. Once again, he said one of the bartenders operating during that time period was Ms. Popp, who was now asking to be the license holder. Therefore, the Tucson Police Department was making the recommendation that they did not feel she was capable, qualified, or reliable to be the bartender.

Council Member Trasoff said the applicant denied ever being arrested, and asked if she, in fact, had ever been arrested.

Sergeant Stoutmeyer replied the question she did not reply to was if she had ever been arrested. Whether it had been dismissed, in custody, or anything, would not make a difference. She was still required to forward that, and she did not note that information. The charge against her was that they did a cub operation where they sent a minor in. They cited the door person for allowing the minor to go in without checking his identification. They also cited Ms. Popp for selling the alcohol without verifying the identification of the minor, who was obviously a minor individual at the time.

Sergeant Stoutmeyer said Ms. Popp's explanation at the time was that it was the doorman's job; that he was supposed to be checking it. Therefore, at City Court, since the individual at the door plead guilty to it, they ended up dismissing the charge against Ms. Popp.

Council Member Trasoff said there was one point in Sergeant Stoutmeyer's report that was worth reading into the record. That was the fact that "the transfer of the license did not mitigate the prior acts of violence at the establishment." This was on the bottom of the front page, which had been problematic for the establishment. There was a concern that the liquor license transfer could result in a hidden ownership scenario. Council Member Trasoff said even if they left that last sentence out, the fact was that Ms. Popp was part of the immediate past, before she came over to run the bar. She stated transferring the license did not mean the past acts, even though she did not take over until January of this year; did not eliminate the past actions. She asked Sergeant Stoutmeyer if that was correct.

Sergeant Stoutmeyer replied that was correct.

Council Member Trasoff said she was sympathetic to possible misunderstandings on the part of Ms. Popp, because of cultural differences from where she was raised, and to understanding some of the letters of the law as they might apply here, she felt she had make a motion for denial.

It was moved by Council Member Trasoff, duly seconded, and carried by a voice vote of 6 to 0, (Council Member Leal absent/excused), that liquor license application 5b1, Speak Easy Bar & Restaurant, 1120 S. Wilmot Rd., City 3-07, be forwarded to the Arizona State Liquor Board with a recommendation for denial.

6. CALL TO THE AUDIENCE

Mayor Walkup announced this was the time any member of the public was allowed to address the Mayor and Council on any issue except for any items scheduled for a public hearing. Speakers would be limited to three-minute presentations.

- a. Michael Toney spoke about growth and the issues surrounding it which he said were not being addressed.

- b. Roy Warden spoke about his recent conviction and sentencing and his intent to stage a public protest soon.
- c. Russ Dove spoke about lawlessness and the differences between a police state and an occupied state.
- d. Sheveen King spoke about agenda Item 10, Streams in the Desert zoning case reactivation, and protests that had not been received and considered by the City before making recommendations.

7. **CONSENT AGENDA – ITEMS A THROUGH J**

Mayor Walkup announced the reports and recommendations from the City Manager on the Consent Agenda Items would be received into and made a part of the record. He asked the City Clerk to read the Consent Agenda.

A. FINAL PLAT: (S06-045) LA PLAYA CONDOMINIUMS, UNITS 1 TO 16, COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

- 1. Report from City Manager FEB21-07-90 WARD 6
- 2. Staff recommends that the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

B. ASSURANCE AGREEMENT: (S05-257) 21ST STREET PROPERTY SUBDIVISION (RCP), LOTS 1 TO 5

- 1. Report from City Manager FEB21-07-91 WARD 5
- 2. Resolution No. 20582 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval in Case No. S05-257 of a final plat for the 21st Street Property, an RCP Subdivision, Lots 1 to 5; and declaring an emergency.

C. FINAL PLAT: (S05-257) 21ST STREET PROPERTY SUBDIVISION (RCP), LOTS 1 TO 5

- 1. Report from City Manager FEB21-07-92 WARD 5
- 2. Staff recommends that, after approval of the assurance agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

D. TUCSON CODE: AMENDING (CHAPTER 17) RELATING TO HUMAN RELATIONS AND CIVIL RIGHTS

1. Report from City Manager FEB21-07-96 CITY-WIDE
2. Ordinance No. 10375 relating to civil rights; amending Tucson Code Chapter 17, Article III, correctly identifying the Office of Equal Opportunity Programs (OEOP); changing the term Indian to Native American; clarifying certain provisions related to complaints procedures and OEOP findings; describing days as calendar days; increasing the length of time to file a request for review with the Human Relations Commission from 15 days to 30 days; providing that the operation of female-only and male-only fitness centers/gymnasiums does not violate Chapter 17 as long as the fitness center/gymnasium does not include any of the facilities other than gymnasium listed in Section 17-11(m), and does not discriminate against any other protected group identified in Section 17-1; correcting grammatical errors; and declaring an emergency.

E. ASSURANCE AGREEMENT: (S04-026) HOUGHTON CROSSINGS OFFICE CONDOMINIUM PARK SUBDIVISION, LOT 1, UNITS 101 TO 139 AND 201 TO 212, COMMON ELEMENTS "A" AND "B", AND LIMITED COMMON ELEMENTS

1. Report from City Manager FEB21-07-100 WARD 4
2. Resolution No. 20583 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval in Case No. S04-026 of a final plat for the Houghton Crossings Office Condominium Park Subdivision, Lot 1, Units 101 – 139, 201 - 212, Common Element "A" and "B" and Limited Common Elements; and declaring an emergency.

F. FINAL PLAT: (S04-026) HOUGHTON CROSSINGS OFFICE CONDOMINIUM PARK SUBDIVISION, LOT 1, UNITS 101 TO 139 AND 201 TO 212, COMMON ELEMENTS "A" AND "B", AND LIMITED COMMON ELEMENTS

1. Report from City Manager FEB21-07-101 WARD 4
2. Staff recommends that, after approval of the assurance agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

G. GRANT APPLICATION: TO THE STATE OF ARIZONA FOR HERITAGE FUNDING ASSISTANCE FOR SILVERLAKE PARK FIELD LIGHTING

1. Report from City Manager FEB21-07-99 WARD 5
2. Resolution No. 20584 relating to historic preservation; approving the application to the State of Arizona for Heritage Funding assistance for Silverlake Park field lighting; and declaring an emergency.

H. ASSURANCE AGREEMENT: (S05-099) SUNSET POINTE AT MIDVALE PARK SUBDIVISION (RCP), LOTS 1 TO 55 AND COMMON AREAS “A”, “B”, AND “C”

1. Report from City Manager FEB21-07-93 WARD 1
2. Resolution No. 20586 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval in Case No. S05-099 of a final plat for the Sunset Pointe at Midvale Park Subdivision, Lots 1 to 55 and Common Areas “A” - “C”; and declaring an emergency.

I. FINAL PLAT: (S05-099) SUNSET POINTE AT MIDVALE PARK SUBDIVISION (RCP), LOTS 1 TO 55 AND COMMON AREAS “A”, “B”, AND “C”

1. Report from City Manager FEB21-07-94 WARD 1
2. Staff recommends that, after approval of the assurance agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

J. FINANCE: COMMUNITY SUPPORT FUND TRANSFER FOR THE SAM HUGHES NEIGHBORHOOD ASSOCIATION

1. Report from City Manager FEB21-07-102 WARD 6
2. Resolution No. 20587 relating to Finance; approving and authorizing the allocation of fifty-nine dollars (\$59.00) from the Community Support Fund, Account No. 001-183-1898-268, to the Sam Hughes Neighborhood Association to reimburse the Association for replacing a stolen sign at the northeast entrance to the neighborhood; and declaring an emergency.

This is a request by Council Member Trasoff. Allocation of funds is as follows:
Council Member Trasoff - \$59.00.

It was moved by Vice Mayor West, duly seconded, that Consent Agenda Items A through J be passed and adopted and the proper action taken.

Mayor Walkup asked if there was further discussion. Hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Ibarra, Uhlich, Scott and Trasoff;
Vice Mayor West and Mayor Walkup

Nay: None

Absent/Excused: Council Member Leal

Consent Agenda Items A through J were declared passed and adopted by a roll call vote of 6 to 0.

8. PUBLIC HEARING: FEDERAL TRANSIT ADMINISTRATION GRANT APPLICATION FOR FEDERAL FISCAL YEAR 2006

Mayor Walkup announced City Manager's communication number 97, dated February 21, 2007 would be received into and made a part of the record. He also announced this was the time and place legally advertised for a public hearing on a Federal Transit Administration grant application. The public hearing was scheduled to last for no more than one hour, and speakers would be limited to five-minute presentations.

Mayor Walkup asked if there were any speaker cards on this item. There were none. Mayor Walkup asked the audience if anyone wanted to speak at that time. There was no one.

It was moved by Council Member Scott, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Leal absent/excused) to close the public hearing.

Mayor Walkup asked the City Clerk to read Resolution 20585 by number and title only.

Resolution No. 20585 relating to transportation; authorizing and approving the submission of a Federal Transit Administration (FTA) Section 5307 Formula Grant Application for Federal Fiscal Year 2006 Grant AZ-90-X090; and declaring an emergency.

It was moved by Council Member Scott, duly seconded, to adopt Resolution 20585.

Mayor Walkup asked if there was any discussion.

Vice Mayor West asked what the grant items were for, specifically what capitalized maintenance meant.

James Glock, Director of Transportation, said capitalized maintenance is essentially an eligible category of the Federal Transportation Administration rules that allows the use of grant funds to maintain assets that were purchased with other grant funds. He said in the past the City was able to get an operating subsidy from the Federal Transportation Administration, but over the years that subsidy had been eliminated. But with the passing of recent Federal legislation it was realized that this lead to deferred maintenance on those capital investments that were made to transit properties around the United States. Therefore, the eligibility of grant funds was opened up to be used to help maintain those assets purchased. However, the Federal Transportation Administration does not use the words “operating assistance.” Rather the term “capitalized maintenance” is used.

Mayor Walkup asked if there were any further questions. Hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Ibarra, Uhlich, Scott and Trasoff;
Vice Mayor West and Mayor Walkup

Nay: None

Absent/Excused: Council Member Leal

Resolution 20585 was declared passed and adopted by a roll call vote of 6 to 0.

9. PUBLIC HEARING: AMENDING TUCSON CODE (CHAPTER 3) REGARDING THE COMPOSITION OF THE SIGN CODE ADVISORY AND APPEALS BOARD

Mayor Walkup announced City Manager’s communication number 86, dated February 21, 2007 would be received into and made a part of the record. He also announced this was the time and place legally advertised for a public hearing regarding the Sign Code Advisory and Appeals Board. The public hearing was scheduled to last for no more than one hour, and speakers would be limited to five-minute presentations. He said he had several cards and asked speakers to come forward when he called their name.

Sharon Emley said she was in support of the ordinance regarding the composition of the Sign Code Advisory and Appeals Board. She said she was a retired prosecuting attorney having experience and interest in seeing the law enforced in the interest of the public. She said she had a special interest in seeing the sign code enforced in Tucson

because of her love of this beautiful city. She said she was not a car dealer, hotel owner, an architect or restaurant owner. But she said she had served on the Sign Code Advisory and Appeals Board for eight years from 1996 until January of 2004. She said this was at a time when apparently the Board was operating under an ordinance that called for balance on the Board between business owners and members of the public. She served in one of the slots designated for the general public. She said the Board did a good conscientious job for the Tucson public granting some variances and denying others. She said in her experience there was no reason to exclude members of the general public from the Board and stack it with only businessmen. She said the general public cared about the sign code being enforced in Tucson. She said it would only take a conscientious and analytical mind to serve on and do the job of this Board. Therefore, she said she supported the ordinance assuring fair balance on the Sign Code Advisory and Appeals Board.

Mark Meyer said he wanted to speak briefly in support of the ordinance as drafted. He said it had taken a lot of twists and turns since the Mayor and Council had first unanimously requested it on October 10, 2006. He said the ordinance was now here four and a half months later in that form. He added that this was a board of adjustment for signs which makes legally binding decisions. He said one could craft any kind of advisory body one wants for any particular issue. But when a board makes legally binding decisions it was really important that it reflect the community as a whole, not just a certain narrow sector as had been in place for the last three years.

Mayor Walkup asked the audience if anyone else wanted to speak at that time.

Hearing none, it was moved by Council Member Trasoff, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Leal absent/excused) to close the public hearing.

Mayor Walkup asked the City Clerk to read Ordinance 10376 by number and title only.

Ordinance No. 10376 relating to outdoor signs; amending the Tucson Code, Chapter 3, Advertising and Outdoor Signs, Article XIV, Sign Code Advisory and Appeals Board, Sec. 3-115, Membership, term, removal from office; and setting an effective date.

It was moved by Council Member Trasoff, duly seconded, to approve the ordinance as recommended by the Citizen Sign Code Committee.

Mayor Walkup asked if there were any further questions. Hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Ibarra, Uhlich, Scott and Trasoff;
Vice Mayor West and Mayor Walkup

Nay: None

Absent/Excused: Council Member Leal

Ordinance 10376 was declared passed and adopted by a roll call vote of 6 to 0.

10. ZONING: (C9-01-18) STREAMS IN THE DESERT LUTHERAN – LEE STREET, R-1 TO R-2, REQUEST FOR REACTIVATION AND TIME EXTENSION (CONTINUED FROM THE MEETING OF FEBRUARY 6, 2007)

Mayor Walkup announced City Manager's communication number 98, dated February 21, 2007 would be received into and made a part of the record. He stated that this was a request to approve a five-year time extension. He asked if the applicant or a representative was present. He asked they come forward, state their name and address and state if they were agreeable to the proposed requirements.

Paul Olson, President of Olson Shaheen Architects, said he represented Streams in the Desert Lutheran Church and that they were agreeable to the additional conditions concerning the retention/detention. He said that at the request of the Council at the last meeting he met with members of the neighborhood who were in opposition as part of a larger community forum. He said he met with and had a very good discussion with Mr. and Mrs. King. He said they had invited Monique Martin from the Ward 6 Office to attend, but she was unable to attend due to illness. He said he spoke with her and gave a fair characterization of the meeting so the Ward 6 Office was aware of what was covered.

Mr. Olson added that they were neighbors and no matter what happened they were a community and would continue to work together as best they could.

Council Member Trasoff said she had a few questions. She asked about the letters Sheveen King spoke of during Call to the Audience. She said she had looked for but found no such letters in the packet she had received.

Ernie Duarte, Development Services Director, said they had received a number of protest letters that were part of the rezoning application file. He said he would read into the record what the new protest levels were. He said there were a total of ten protest letters and four approval letters for this case. He said it was important to underscore that this information came into play at the time of ordinance adoption. He said the item before the Council was simply a reactivation of the case for another five years where they applicants have five years to perfect the rezoning conditions, get the development plan approved and work with the neighbors to try and eliminate some of the protest levels.

Council Member Trasoff asked if the presentation of those protest letters were required at that time.

Mr. Duarte said no they were not, that they were for information purposes only. He said that those were the protest levels right now and that the protest levels come into play the time of ordinance adoption.

Council Member Trasoff clarified that what was being done was granting the extension and that the protest letters would be considered at the time of ordinance adoption.

Mr. Duarte said that was correct.

Mr. Rankin also said that was correct. He suggested the Council think of it as being similar to an authorization rather than an adoption of ordinance, which was the normal scenario. He said staff provided the protest level information so it was known at the authorization stage whether the case was likely to require a super majority vote at time of ordinance adoption. He said as mentioned in the write-up, even before the updated information came in, the protest level was such that this case would require a super majority vote of the Council at the time of ordinance adoption.

Council Member Trasoff thanked Mr. Rankin for the clarification. She also mentioned that Ms. Martin was an incredibly reliable aide and was ill the day of the meeting and she did speak with the homeowners' association president to get that perspective. They were not relying on just one side of the story. She said she was sure Mr. Olson had been very balanced in his presentation and that Ms. Martin shared with her the information she had received about the meeting. She said she did understand the frustration and concerns. She said she understood Mr. Olson was in agreement with the conditions. She asked that traffic safety along Lee Street be considered as they move forward. She said that on page two, condition two stated there would be a sign saying "No Right Turn." She asked that he consider putting in a "porkchop" so drivers cannot make a right turn and traffic would be moved up towards Pima, which was more of a main thoroughfare and away from Lee Street and the neighbors who had raised concerns. She said this was something that could come at the time of ordinance adoption, if and when it comes to that. She said it would be at that time that the letters would come into play and they would be given due consideration.

It was moved by Council Member Trasoff, duly seconded, to approve the request as presented by staff.

Mayor Walkup asked if there were any further questions. Hearing none, he asked for a voice vote.

The motion to approve the reactivation and time extension to the rezoning was carried by a voice vote of 6 to 0 (Council Member Leal absent/excused).

11. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Walkup announced City Manager's communication number 95, dated February 21, 2007 would be received into and made a part of the record. He asked if there were any personal appointments to be made.

There were no appointments.

12. ADJOURNMENT: 6:36 p.m.

Mayor Walkup announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, February 27, at 5:30 p.m. in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona.

MAYOR

ATTEST:

CITY CLERK

CERTIFICATE OF AUTHENTICITY

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the City of Tucson, Arizona, held on the 21st day of February 2007, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

KSD:rwp:ss